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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,153	03/05/2001	Gregory A. Sims	SIMSG 01-01.PA	4533

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Quirk & Tratos
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EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/24/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,153

Applicant(s)

SIMS, GREGORY A.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment filed October 21, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Inventions of the newly present claims 20-24 and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the Invention of claim 20 does not require "the injection device includes an inert gas inlet, a pesticide inlet, and valve means for selectively providing inert gas and pesticide to the discharge portion". The subcombination has separate utility such as water delivery fire suppression system.
4. Claims 20-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Claim Rejections - 35 USC § 103

5. Claims 1-5, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Wing (2,862,765).

With respect to claims 1, 2 and 5-8,

Jackson discloses a system for distributing pesticide comprising: a port 63; a distribution manifold 57; a plurality of elongate tubing members 55, 52, 51; fluid discharge openings 53.

It should be noted that air is usually not considered an inert gas but the examiner is utilizing applicant's definition in the specification, on page 6, lines 23-24, wherein it recites "inert gas, such as compressed air (or nitrogen)."

Jackson discloses the limitations of the claimed invention with the exception of the details of the injection device. Wing discloses an injection device comprising: an inert gas inlet 18; a pesticide inlet 19; a valve means 33, 34. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the injection device of Wing to the system of Jackson to utilize a non-explosive propellant (Wing, column 2, line 38).

With respect to claims 3 and 4, Jackson in view of Wing discloses the limitations of the claimed invention with the exception of the at least six outlets and at least eight outlets. Jackson schematically shows, in figure 4, two additional lines leading from selector valve 60. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided additional outlets to the device of Jackson

in view of Wing for utilization in large buildings and/or provide additional distribution zones.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Wing (2,862,765) as applied to claim1 above, and further in view of Hill (2,246,731).

Jackson in view of Wing discloses the limitations the claimed invention with the exception of the wheeled vehicle. Hill discloses a wheeled vehicle (see figure 1). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a wheeled vehicle to the device of Jackson in view of Wing as taught by Hill for mobility.

7. Claim 10 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Wing (2,862,765) as applied to claim1 above, and further in view of Cann (5,310,114).

Jackson in view of Wing discloses a flow measuring means 54. Jackson does not disclose a recording means. Cann discloses a processor 28 having a video monitor or printer. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a recording means to the device of Jackson in view of Wing as taught by Cann to provide a printout of flow characteristics.

8. Claim 11 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Wing (2,862,765) and Cann (5,310,114) as applied to claim1 above, and further in view of Hill (2,246,731).

Jackson in view of Wing and Cann discloses the limitations the claimed invention with the exception of the wheeled vehicle. Hill discloses a wheeled vehicle (see figure 1). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a wheeled vehicle to the device of Jackson in view of Wing and Cann as taught by Hill for mobility.

9. Claim 12 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4,800,672) in view of Wing (2,862,765) as applied to claim1 above, and further in view of Konieczynski (5,310,114).

Jackson in view of Wing discloses a flow measuring means 54 (a pressure gauge) but it is not audible. Konieczynski discloses an audible alarm 56 connected to a pressure switch 54. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided an audible signal means to the pressure gauge in the device of Jackson in view of Wing as taught by Konieczynski to provide an audible alarm.

Response to Arguments

10. Applicant's arguments with respect to claims 1-5, 7-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703)


Application/Control Number: 09/800,153
Art Unit: 3752

Page 6

308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Christopher S. Kim
Primary Examiner
Art Unit 3752

CK